PURILL State Bar Court of California **Hearing Department** Los Angeles **ACTUAL SUSPENSION** Counsel For The State Bar Case Number(s): For Court use only 12-O-11341-RAP Mia R. Ellis FILED Deputy Trial Counsel 1149 South Hill Street Los Angeles, CA 90015 MAR 05 2013 213-765-1380 STATE BAR COUR CLERK'S OFFICE Bar # 228235 LOS ANGELES In Pro Per Respondent Jordan Morris Wank 5638 Etiwanda #4 Tarzana, CA 91356 818-469-4922 Submitted to: Settlement Judge STIPULATION RE FACTS, CONCLUSIONS OF LAW AND Bar # 29383 DISPOSITION AND ORDER APPROVING In the Matter of: Jordan Morris Wank **ACTUAL SUSPENSION** PREVIOUS STIPULATION REJECTED Bar # 29383 A Member of the State Bar of California (Respondent)

Note: All information required by this form and any additional information which cannot be provided in the space provided, must be set forth in an attachment to this stipulation under specific headings, e.g., "Facts," "Dismissals," "Conclusions of Law," "Supporting Authority," etc.

A. Parties' Acknowledgments:

- (1) Respondent is a member of the State Bar of California, admitted January 14, 1959.
- (2) The parties agree to be bound by the factual stipulations contained herein even if conclusions of law or disposition are rejected or changed by the Supreme Court.
- (3) All investigations or proceedings listed by case number in the caption of this stipulation are entirely resolved by this stipulation and are deemed consolidated. Dismissed charge(s)/count(s) are listed under "Dismissals." The stipulation consists of 12 pages, not including the order.
- (4) A statement of acts or omissions acknowledged by Respondent as cause or causes for discipline is included under "Facts."

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(5)	Cor Lav	nclusions of law, drawn from and specifically referring to the facts are also included under "Conclusions of w".				
(6)	The "Su	e parties must include supporting authority for the recommended level of discipline under the heading apporting Authority."				
(7)	No pen	more than 30 days prior to the filing of this stipulation, Respondent has been advised in writing of any nding investigation/proceeding not resolved by this stipulation, except for criminal investigations.				
(8)	Payment of Disciplinary Costs—Respondent acknowledges the provisions of Bus. & Prof. Code §§6086.10 & 6140.7. (Check one option only):					
		relief is obtained per rule 5.130, Rules of Procedure.				
F	rofe		ing Circumstances [for definition, see Standards for Attorney Sanctions for onal Misconduct, standard 1.2(b)]. Facts supporting aggravating circumstances red.			
(1)	\boxtimes	Prio	r record of discipline [see standard 1.2(f)]			
	(a)	\boxtimes	State Bar Court case # of prior case 03-O-04920 (See Stipulation at page 9)			
	(b)	\boxtimes	Date prior discipline effective August 10, 2004			
	(c)	\boxtimes	Rules of Professional Conduct/ State Bar Act violations: Two counts of Rules of Professional Conduct, rule 4-100(A)			
	(d)	\boxtimes	Degree of prior discipline Private reproval			
	(e)		If Respondent has two or more incidents of prior discipline, use space provided below.			
(2)		Dishonesty: Respondent's misconduct was surrounded by or followed by bad faith, dishonesty, concealment, overreaching or other violations of the State Bar Act or Rules of Professional Conduct.				
(3)		Trust Violation: Trust funds or property were involved and Respondent refused or was unable to account to the client or person who was the object of the misconduct for improper conduct toward said funds or property.				
(4)		Harm: Respondent's misconduct harmed significantly a client, the public or the administration of justice.				
(5)		Indifference: Respondent demonstrated indifference toward rectification of or atonement for the consequences of his or her misconduct.				

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(6)		Lack of Cooperation: Respondent displayed a lack of candor and cooperation to victims of his/her misconduct or to the State Bar during disciplinary investigation or proceedings.	
(7)	\boxtimes	Multiple/Pattern of Misconduct: Respondent's current misconduct evidences multiple acts of wrongdoing or demonstrates a pattern of misconduct. See stipulation at page 9	
(8)		No aggravating circumstances are involved.	
Addi	tiona	al aggravating circumstances:	
C. N	litig ircu	ating Circumstances [see standard 1.2(e)]. Facts supporting mitigating mstances are required.	
(1)		No Prior Discipline: Respondent has no prior record of discipline over many years of practice coupled with present misconduct which is not deemed serious.	
(2)		No Harm: Respondent did not harm the client or person who was the object of the misconduct.	
(3)		Candor/Cooperation: Respondent displayed spontaneous candor and cooperation with the victims of his/her misconduct and to the State Bar during disciplinary investigation and proceedings.	
(4)		Remorse: Respondent promptly took objective steps spontaneously demonstrating remorse and recognition of the wrongdoing, which steps were designed to timely atone for any consequences of his/her misconduct.	
(5)		Restitution: Respondent paid \$ on in restitution to without the threat or force of disciplinary, civil or criminal proceedings.	
(6)		Delay: These disciplinary proceedings were excessively delayed. The delay is not attributable to Respondent and the delay prejudiced him/her.	
(7)		Good Faith: Respondent acted in good faith.	
(8)		Emotional/Physical Difficulties: At the time of the stipulated act or acts of professional misconduct Respondent suffered extreme emotional difficulties or physical disabilities which expert testimony would establish was directly responsible for the misconduct. The difficulties or disabilities were not the product of any illegal conduct by the member, such as illegal drug or substance abuse, and Respondent no longer suffers from such difficulties or disabilities.	
(9)		Severe Financial Stress: At the time of the misconduct, Respondent suffered from severe financial stress which resulted from circumstances not reasonably foreseeable or which were beyond his/her control and which were directly responsible for the misconduct.	
(10)		Family Problems: At the time of the misconduct, Respondent suffered extreme difficulties in his/her personal life which were other than emotional or physical in nature.	
(11)		Good Character: Respondent's good character is attested to by a wide range of references in the legal and general communities who are aware of the full extent of his/her misconduct.	
(12)		Rehabilitation: Considerable time has passed since the acts of professional misconduct occurred followed by convincing proof of subsequent rehabilitation.	

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(13)		No m	nitigat	ing circumstances are involved.	
Addi	tiona	ıl miti	gating	g circumstances:	
	Se	e Stip	oulatio	on at Page 9.	
D. D	isci	pline):		
(1)	⊠ Stayed Suspension:				
	(a)	\boxtimes	Resp	ondent must be suspended from the practice of law for a period of 2 years.	
		i.		and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and present fitness to practice and present learning and ability in the law pursuant to standard 1.4(c)(ii) Standards for Attorney Sanctions for Professional Misconduct.	
		ii.		and until Respondent pays restitution as set forth in the Financial Conditions form attached to this stipulation.	
		iii.		and until Respondent does the following: .	
	(b)	\boxtimes	The a	above-referenced suspension is stayed.	
(2)	\boxtimes	Prob	ation		
	Res of th	spond ne Su	pondent must be placed on probation for a period of 2 years, which will commence upon the effective date ne Supreme Court order in this matter. (See rule 9.18, California Rules of Court)		
(3)	\boxtimes	Actu	al Su	spension:	
	(a)	\boxtimes		condent must be actually suspended from the practice of law in the State of California for a period days.	
		i.		and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and present fitness to practice and present learning and ability in the law pursuant to standard 1.4(c)(ii), Standards for Attorney Sanctions for Professional Misconduct	
		ii.		and until Respondent pays restitution as set forth in the Financial Conditions form attached to this stipulation.	
		iti.		and until Respondent does the following:	
E. A	\ddi	tiona	al Co	nditions of Probation:	
(1)		If Respondent is actually suspended for two years or more, he/she must remain actually suspended until he/she proves to the State Bar Court his/her rehabilitation, fitness to practice, and learning and ability in the general law, pursuant to standard 1.4(c)(ii), Standards for Attorney Sanctions for Professional Misconduct.			
(2)	\boxtimes	During the probation period, Respondent must comply with the provisions of the State Bar Act and Rules of Professional Conduct.			
(3)	\boxtimes	Within ten (10) days of any change, Respondent must report to the Membership Records Office of the State Bar and to the Office of Probation of the State Bar of California ("Office of Probation"), all changes of			
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700 11	Or WHILE I	ADOVE trito inte.)
		□ No MPRE recommended. Reason:
(2)		Rule 9.20, California Rules of Court: Respondent must comply with the requirements of rule 9.20, California Rules of Court, and perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 calendar days, respectively, after the effective date of the Supreme Court's Order in this matter.
(3)		Conditional Rule 9.20, California Rules of Court: If Respondent remains actually suspended for 90 days or more, he/she must comply with the requirements of rule 9.20, California Rules of Court, and perform the acts specified in subdivisions (a) and (c) of that rule within 120 and 130 calendar days, respectively, after the effective date of the Supreme Court's Order in this matter.
(4)		Credit for Interim Suspension [conviction referral cases only]: Respondent will be credited for the period of his/her interim suspension toward the stipulated period of actual suspension. Date of commencement of interim suspension:
(5)		Other Conditions:

the Matter of:		Case	Number(s):	
ordan Morris V	Vank		12-O-11341	
nancial Con	ditions			
Restitution				
payee(s) I or any por	sted below. If the C	lient Security Fund ("CSF") i amount(s) listed below, Resp	nount, plus interest of 10% per nas reimbursed one or more condent must also pay restitu	of the payee(s) for al
Payee		Principal Amount	Interest Accrues From	n
	:			
Responde Probation	nt must pay above-r	eferenced restitution and pr	ovide satisfactory proof of page	yment to the Office o
Probation Installment R Responde must prov as otherw probation	not later than estitution Payment int must pay the abo ide satisfactory proo ise directed by the C (or period of reprova	s ve-referenced restitution on f of payment to the Office of office of Probation. No later	the payment schedule set for Probation with each quarter than 30 days prior to the exp any necessary final payment	rth below. Responde y probation report, or iration of the period o
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- b. Respondent has kept and maintained the following:
 - i. A written ledger for each client on whose behalf funds are held that sets forth:
 - 1. the name of such client:
 - 2. the date, amount and source of all funds received on behalf of such client;
 - 3. the date, amount, payee and purpose of each disbursement made on behalf of such client; and,
 - 4. the current balance for such client.
 - ii. a written journal for each client trust fund account that sets forth:
 - 1. the name of such account;
 - 2. the date, amount and client affected by each debit and credit; and,
 - 3. the current balance in such account.
 - iii. all bank statements and cancelled checks for each client trust account; and,
 - iv. each monthly reconciliation (balancing) of (i), (ii), and (iii), above, and if there are any differences between the monthly total balances reflected in (i), (ii), and (iii), above, the reasons for the differences.
- c. Respondent has maintained a written journal of securities or other properties held for clients that specifies:
 - i. each item of security and property held;
 - ii. the person on whose behalf the security or property is held;
 - iii. the date of receipt of the security or property;
 - iv. the date of distribution of the security or property; and,
 - v. the person to whom the security or property was distributed.
- 2. If Respondent does not possess any client funds, property or securities during the entire period covered by a report, Respondent must so state under penalty of perjury in the report filed with the Office of Probation for that reporting period. In this circumstance, Respondent need not file the accountant's certificate described above.
- The requirements of this condition are in addition to those set forth in rule 4-100, Rules of Professional Conduct.

d. Client Trust Accounting School

Within one (1) year of the effective date of the discipline herein, Respondent must supply to the Office of Probation satisfactory proof of attendance at a session of the Ethics School Client Trust Accounting School, within the same period of time, and passage of the test given at the end of that session.



ATTACHMENT TO

STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF:

Jordon Morris Wank

CASE NUMBER(S):

12-O-11341-RAP

FACTS AND CONCLUSIONS OF LAW.

Respondent admits that the following facts are true and that he is culpable of violations of the specified statutes and/or Rules of Professional Conduct.

Case No. 12-O-11341 (State Bar Investigation)

FACTS:

- 1. From July 1, 2011 to present, Respondent maintained a client trust account (CTA) at Bank of America account number XXXXX-XXX57.
- 2. From July 1, 2011 to January 1, 2012, Respondent caused his monthly Social Security checks to be deposited into his CTA.

CONCLUSIONS OF LAW:

3. By causing his Social Security checks to be deposited into his CTA, Respondent deposited or commingled funds belonging to Respondent in a bank account labeled "Trust Account," "Client's Funds Account" or words of similar import, in violation of Rules of Professional Conduct, rule 4-100(A).

ADDITIONAL FACTS RE AGGRAVATING CIRCUMSTANCES.

Prior Record of Discipline: Respondent has a prior record of discipline. Effective August 10, 2004 (case number 03-O-04920), Respondent received a private reproval for violating Rules of Professional Conduct, rule 4-100(A), issuing checks against insufficient funds. Respondent maintained a CTA for a single client at Bank of America, which was set up to pay expenses for Respondent's client's company. On November 6, 2002, Respondent deposited a check for \$100,000.00 into the CTA. Prior to the \$100,000.00 check clearing the account, Respondent issued eight checks to pay expenses, which were issued against insufficient funds.

Multiple/Patters of Misconduct: Respondent's conduct involved multiple acts of wrongdoing as there are monthly deposits of Respondent's Social Security checks into his client trust account over the course of six months. The instant case does not evidence a pattern of misconduct as it did not extend over a prolonged course of time. Young v. State Bar, (1990) 50 Cal.3d 1204. Standard 1.2(b)(ii)

ADDITIONAL FACTS RE MITIGATING CIRCUMSTANCES.

Additional Mitigating Circumstances: Respondent has been cooperative in stipulating to facts and conclusions of law in this matter. Entering into a Stipulation deserves varying amounts of mitigation. (In the Matter of Connor (Review Dept. 2008) 5 Cal. State Bar Ct. Rptr. 93, 107.) The greatest weight is afforded to those stipulations of facts not easily proven or stipulations to level of discipline. (In the Matter of Silver (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 902, 906.) The facts in the instant matters could have been proven by documentary evidence. Thus, Respondent's cooperation is given some, but not great weight in mitigation.

AUTHORITIES SUPPORTING DISCIPLINE.

The Standards for Attorney Sanctions for Professional Misconduct provide a "process of fixing discipline" pursuant to a set of written principles to "better discharge the purposes of attorney discipline as announced by the Supreme Court." (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct, Introduction (all further references to standards are to this source).) The primary purposes of disciplinary proceedings and of the sanctions imposed are "the protection of the public, the courts and the legal profession; the maintenance of high professional standards by attorneys and the preservation of public confidence in the legal profession." (*In re Morse* (1995) 11 Cal.4th 184, 205; std 1.3.)

Although not binding, the standards are entitled to "great weight" and should be followed "whenever possible" in determining level of discipline. (In re Silverton (2005) 36 Cal.4th 81, 92, quoting In re Brown (1995) 12 Cal.4th 205, 220 and In re Young (1989) 49 Cal.3d 257, 267, fn. 11.) Adherence to the standards in the great majority of cases serves the valuable purpose of eliminating disparity and assuring consistency, that is, the imposition of similar attorney discipline for instances of similar attorney misconduct. (In re Naney (1990) 51 Cal.3d 186, 190.) Any discipline recommendation different from that set forth in the applicable standards should clearly explain the reasons for the deviation. (Blair v. State Bar (1989) 49 Cal.3d 762, 776, fn. 5.)

As discussed above, Respondent has one prior record of discipline. Standard 1.7(a) requires that where a Respondent is found culpable of professional misconduct in any proceeding in which discipline may be imposed and the Respondent has a record of one prior imposition of discipline as defined by standard 1.2(f), the degree of discipline imposed in the current proceeding shall be greater than that imposed in the prior proceeding unless the prior proceeding was so remote in time to the current proceeding and the offense for which it was imposed was so minimal in severity that imposing greater discipline in the current proceeding would be manifestly unjust.

The discipline applicable to Respondent's misconduct is found in standard 2.2(b), which provides that "culpability of a member of commingling of entrusted funds or property with personal property or the commission of another violation of rule 4-100, Rules of Professional Conduct, none of which offenses result in the wilful misappropriation of entrusted funds or property shall result in at least a three month actual suspension from the practice of law, irrespective of mitigating circumstances."

The California Supreme Court has held that the rule against commingling is absolute. (See *Doyle v. State Bar*, (1982) 684 P.2d 942, 948; *Arm v. State Bar*, (1990) 789 P.2d 922, 929). The rule bars use of a client trust account for personal purposes, even if there are no client funds on deposit. (See *In the Matter of Doran*, (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 871). There need not be harm to a client to

establish a commingling violation, as the fact "[t]hat no harm may result from commingling in a particular case is mere fortuity." (Heavey v. State Bar (1976) 17 Cal. 3d 553, 558).

In Coppock v. State Bar (1988) 44 Cal. 3d 665, the Supreme Court imposed discipline in the form of a two-year stayed suspension, two years' probation, and a ninety day actual suspension on an attorney who established a client trust account at the request of his client for the purpose of shielding the client's money from judgment creditors. The attorney then ceded total control of the account to the client for a period of approximately two years before closing the account and paying the funds to the client, ultimately resulting in the client defrauding others. The Court gave minimal weight to the following factors in mitigation: the attorney's lack of prior record as his time in practice was short, the attorneys claimed emotional difficulties, and lack of harm to clients. The Court further discussed in mitigation the attorney's good faith, good character, cooperation and remorse, but found the mitigating factors did not render the discipline excessive.

Coppock is informative on the issue of level of discipline insofar as that case involved the misuse of a client trust account. While there is no evidence in the instant case that Respondent has committed fraud, Respondent's conduct involves an extended period of commingling as he deposited his Social Security checks into his client trust account. Moreover, Respondent's prior record of discipline also involved violating Rules of Professional Conduct, rule 4-100(A). Thus, after analyzing the facts of the current matter, coupled with the aggravating factors, including Respondent's prior record of discipline, and applying the Standards, discipline consistent with Coppock serves the purpose of attorney discipline.

PENDING PROCEEDINGS.

The disclosure date referred to, on page 2, paragraph A(7), was February 5, 2013.

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of the Chief Trial Counsel has informed respondent that as of February 5, 2013, the prosecution costs in this matter are \$2,897.04. Respondent further acknowledges that this is an estimate and should this stipulation be rejected or should relief from the stipulation be granted, the costs in this matter may increase due to the cost of further proceedings.

EXCLUSION FROM MCLE CREDIT

Pursuant to rule 3201, Respondent may <u>not</u> receive MCLE credit for completion of the MPRE or State Bar Ethics School. (Rules Proc. of State Bar, rule 3201.)

(Do not write above this line.)		
In the Matter of:	Case number(s):	
Jordan Morris Wank	12-O-11341	
	SIGNATURE OF THE F	PARTIES
By their signatures below recitations and each of the	v, the parties and their counsel, as applicable terms and conditions of this Stipulation R	le, signify their agreement with each of the le Facts, Conclusions of Law, and Disposition.
2/11/12	Joseph Wart	Jordan Wank
Date	Respondent's Signature	Print Name
Date	Respondent's Counsel Signature	Print Name
2121113	MW UM	Mia Ellis
Date	Deputy Trial Counsel's Signature	Print Name

(Do not write above this line.)	
In the Matter of: Jordan Morris Wank	Case Number(s): 12-O-11341
ACTUAL	SUSPENSION ORDER
Finding the stipulation to be fair to the parties and t requested dismissal of counts/charges, if any, is G	that it adequately protects the public, IT IS ORDERED that the RANTED without prejudice, and:
The stipulated facts and disposition a Supreme Court.	are APPROVED and the DISCIPLINE RECOMMENDED to the
The stipulated facts and disposition a DISCIPLINE IS RECOMMENDED to	are APPROVED AS MODIFIED as set forth below, and the othe Supreme Court.
All Hearing dates are vacated.	
within 15 days after service of this order, is granted stipulation. (See rule 5.58(E) & (F), Rules of Proceed	ed unless: 1) a motion to withdraw or modify the stipulation, filed d; or 2) this court modifies or further modifies the approved dure.) The effective date of this disposition is the effective date days after file date. (See rule 9.18(a), California Rules of
02-27-2013	Mula Cifles
Date	Judge of the State Bar Court

(Effective January 1, 2011)

RICHARDA PLATEL

CERTIFICATE OF SERVICE

[Rules Proc. of State Bar; Rule 5.27(B); Code Civ. Proc., § 1013a(4)]

I am a Case Administrator of the State Bar Court of California. I am over the age of eighteen and not a party to the within proceeding. Pursuant to standard court practice, in the City and County of Los Angeles, on March 5, 2013, I deposited a true copy of the following document(s):

STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING

in a sealed envelope for collection and mailing on that date as follows:

by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

JORDAN MORRIS WANK 5638 ETIWANDA #4 TARZANA, CA 91356

by interoffice mail through a facility regularly maintained by the State Bar of California addressed as follows:

MIA R. ELLIS, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on March 5, 2013.

Johnnie Lee Smith Case Administrator State Bar Court